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## LEGAL UPDATE

Legal Services Division



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### IOWA SUPREME COURT DECISION — IOWA CONSUMER FRAUD ACT AND OLDER IOWANS ACT

**Purpose.** *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

**State of Iowa, ex rel., Attorney General of Iowa, v. Travis Autor, Regenerative Medicine and Anti-Aging Institutes of Omaha, LLC, and Omaha Stem Cells, LLC**

**Filed May 26, 2023, as amended July 25, 2023**

**No. 21–0831**

[www.iowacourts.gov/courtcases/17334/embed/SupremeCourtOpinion](http://www.iowacourts.gov/courtcases/17334/embed/SupremeCourtOpinion)

**Factual and Procedural Background.** The Iowa Consumer Fraud Act (CFA), Iowa Code section 714.16, authorizes the Attorney General to pursue civil enforcement actions. Iowa Code section 714.16(7) requires that these actions “be by equitable proceedings.” In 2020, the Attorney General commenced this civil CFA action against Travis Autor, Regenerative Medicine and Anti-Aging Institutes of Omaha, LLC, and Omaha Stem Cells, LLC (defendants). The Attorney General’s petition alleged that the defendants violated the CFA and the Older Iowans Act, Iowa Code section 714.6A (authorizing an additional civil penalty for violations committed against older persons). The petition sought several remedies against the defendants including a permanent injunction; an order directing the defendants to reimburse money victims spent, and other relief. The defendants answered and demanded a jury trial. The Attorney General moved to strike the jury trial demand stating that because Iowa Code section 714.16(7) requires that civil actions “shall be by equitable proceedings,” the defendants are not entitled to a jury trial. The defendants argued that this requirement is unenforceable because it violates the jury right preserved in Article I, Section 9 of the Iowa Constitution. The defendants argued that the Iowa Constitution requires a jury trial because the Attorney General was seeking substantial monetary remedies as well as joint and several liability. The district court granted the Attorney General’s motion to strike. The defendants then applied for interlocutory review, and the Iowa Supreme Court (Court) granted review and retained the case.

**Issues on Appeal.** Whether the requirement that actions under the CFA be resolved through equitable proceedings violates the right to trial by jury provided in Article I, Section 9 of the Iowa Constitution.

**Holding.** The Court held that the district court was correct to strike the defendants’ jury trial demand. The Court held that the Iowa Code requirement that CFA civil actions be determined by equitable proceedings is not in conflict with the constitutional right to a jury trial provided in the Iowa Constitution. The Court affirmed the holding and remanded the case to the district court for further proceedings.

**Analysis.** The Court began its opinion by explaining the general principles of a right to a jury trial under the Iowa Constitution. At the time the Iowa Constitution was adopted, a jury was available in actions at law, but not in cases within the Court’s equitable jurisdiction. The Court has previously held that there was not a right to a jury trial for cases within the Court’s equitable jurisdiction. The Court has recognized that the Legislature has the power to expand the jurisdiction of a court of equity, and the Legislature has done so in actions for divorce and foreclosure. The Court cited both state and federal cases noting that the Legislature has the power to determine the nature of a

cause of action as equitable. Both parties have agreed that the answer to whether the CFA action requires a right to a jury trial relies upon the essential nature of the cause of action.

The defendants argued the following: (1) that CFA civil actions are akin to criminal anti-fraud prosecutions and common law torts; (2) that since monetary damages are sought, a jury must be available; (3) joint and several liability is not allowed since it is not directly authorized in Iowa Code section 714.16(7); (4) injunctive relief is irrelevant since the defendants are already out of business; (5) the federal 7th Amendment requires the right to a jury trial; (6) the Court should refuse to allow the Attorney General to pursue civil penalties, disgorgement of gross receipts, and joint and several liability; and (7) the Court should require bifurcation by requiring a jury to determine liability and subsequently allowing a judge to determine remedies.

In response to the defendants' arguments, the Court found that: (1) CFA actions are not akin to criminal anti-fraud prosecutions and common law torts; (2) an action seeking monetary relief does not necessarily make the action one at law, and a court of equity is not precluded from awarding monetary damages even if the damages are categorized as punitive; (3) seeking joint and several liability would not change the result of the action and is not at odds with equitable jurisdiction; (4) the CFA permits injunctive relief whenever it appears that a party has engaged in unlawful practices including prior unlawful practices; and (5) the federal 7th Amendment does not apply to state actions, as previously held, and the Court declines to rely on federal precedent in this action. The Court dismissed the defendants' remaining arguments as without merit.

The Court concluded that the CFA civil action in this case is not inherently an action at law but instead an equitable action. The Court found that the Legislature is within its right to establish that the disposition of CFA civil actions are to be enforced by the Attorney General through equitable proceedings.

The Court noted that this opinion only applies to a cause of action available to the Attorney General under Iowa Code section 714.16, and does not apply to a separate private cause of action available to consumers under Iowa Code section 714H.5(1).

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